

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* application of:

TODO, T.

Appl. No. 10/594,962

§371 Date: 29 September 2006

For: **Method for Constructing  
Recombinant Herpes Simplex Virus**

Art Unit: 1632

Examiner: HAMA, J.

Atty. Docket: 042715-5023

Confirmation No.: 6716

Customer No.: 09629

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(d)**

Pursuant to 37 C.F.R. 1.56 and 1.97(d), Applicants bring to the attention of the Examiner the documents listed on the attached PTO-1449 form. This Information Disclosure Statement is being filed to the best of the undersigned's knowledge before the mailing date of a Notice of Allowance for the above-referenced application. Under the provisions of 37 C.F.R. 1.97(d), the Commissioner is hereby authorized on the accompanying transmittal form to charge the fee of \$180.00 as specified by 1.17(p) to Deposit Account 50-0310.

The listed documents are cited in the Supplementary European Search Report issued in a corresponding European Application No. 05727508. A copy of the Supplementary European Search Report is attached.

Except for the U.S. application publication, copies of the listed documents are attached. Applicants respectfully request that the Examiner initial and return the Form PTO-1449, indicating that the information has been considered and made of record herein.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." Applicants reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

**Except** for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this

application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Dated: **January 27, 2010**  
Morgan, Lewis & Bockius LLP  
Customer No. **09629**  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
202-739-3000

Respectfully submitted,  
**Morgan, Lewis & Bockius LLP**

/Todd B. Buck/

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Todd B. Buck  
Registration No. 45,397